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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,065	06/01/2005	Hubert Cecile Francois Martens	NL 021225	8828
24737 7590 04/27/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER AGUSTIN, PETER VINCENT	
			ART UNIT	PAPER NUMBER
			2627	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/27/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/537,065

Applicant(s)

MARTENS ET AL.

Examiner

P. Agustin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

1. This application is a 371 of PCT/IB03/50019, filed on November 6, 2003.
2. Claims 1-10 are now pending.

#### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Specification***

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

5. The specification is objected to because it lacks the appropriate section headings such as BACKGROUND OF THE INVENTION, BRIEF SUMMARY OF THE INVENTION, etc.

6. The disclosure is objected to because of the following informalities:

Page 1, line 1: "a" should be deleted.

Appropriate correction is required.

***Claim Objections***

7. Claim 7 is objected to because of the following informalities:

Claim 7, line 2: "the optical" should be --the optical means--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitations "said focus control means" and "the optical". There is insufficient antecedent basis for these limitations in the claim. The examiner suggests replacing "the optical" with --the optical means-- and changing the dependency from "claim 1" to --claim 6--.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, 6, 7, 9 & 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Taira et al. (US 6,026,072).

In regard to claim 1, Taira et al. disclose a recording apparatus (Figure 3) for recording an information on a recordable optical record carrier (32) by irradiation of a light beam onto said record carrier for forming marks and lands representing said information along an information recording direction, comprising: a light source (21) for generating a light beam, optical means (22-30) for irradiating said light beam onto said record carrier, wherein said optical means (22-30) comprise means for influencing said light beam from said light source to said record carrier during recording of information by use of astigmatism (column 10, lines 40-55) so as to obtain a light beam having a substantial oval spot profile having a shorter axis in the information recording direction compared to the direction orthogonal thereto (see Figure 13).

In regard to claim 2, Taira et al. disclose that said means for influencing the light beam are adapted for introduction of astigmatism into the light beam (column 10, lines 46-48).

In regard to claim 6, Taira et al. disclose that said means for influencing the light beam comprise a focus control means (Figure 8: inherent structure that controls focus position of light beam 50) for control of the focus position of the focal lines of the light beam having an intrinsic astigmatism such that a defocus is introduced during recording of information (as shown by the elliptical shape).

In regard to claim 7, Taira et al. disclose that said focus control means are adapted for adding an offset to a focus error signal used for keeping the optical into focus during recording

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of information (this is understood from “error signal” and “focusing servo” discussed in column 6, lines 58-59).

Claims 9 & 10 have limitations similar to those of claim 1; thus, they are rejected on the same basis.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taira et al. in view of Yasuda et al. (US 6,661,415).

For a description of Taira et al., see the rejection *supra*. However, Taira et al. do not disclose: in regard to claim 3, that said means for influencing the light beam comprise a liquid crystal cell; and in regard to claim 4, that said liquid crystal cell has a cylindrical shape.

Yasuda et al. disclose: in regard to claim 3, a means for influencing a light beam comprising a liquid crystal cell (Figure 12B); and in regard to claim 4, that said liquid crystal cell has a cylindrical shape (column 9, lines 64-67). It would have been obvious to one of ordinary skill in the art at the time of invention by the applicant to have applied the teachings of Yasuda et al. to the recording apparatus of Taira et al., the motivation being to more precisely correct spherical aberration (column 10, lines 27-30).

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taira et al. in view of Cohen (US 4,609,813).

For a description of Taira et al., see the rejection *supra*. However, Taira et al. do not disclose: in regard to claim 5, that said means for influencing the light beam comprise a cylindrical lens.

Cohen discloses a means for influencing a light beam comprising a cylindrical lens (see abstract). It would have been obvious to one of ordinary skill in the art at the time of invention by the applicant to have applied the teachings of Cohen to the recording apparatus of Taira et al., the motivation being to eliminate focus offset errors caused by beam ellipticity (see abstract).

***Allowable Subject Matter***

15. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record alone or in combination fails to teach or suggest: in claim 8, a control means for control of said means for influencing the light beam by switching said means on or off by bringing said means into the light path during recording.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ogasawara et al. (US 6,151,154) disclose an optical pickup aberration correction unit and an astigmatism measurement method wherein astigmatism is corrected by providing a phase difference to a light beam through a liquid crystal layer so that astigmatism can be adjusted according to a simple configuration.

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Tsuchiya et al. (US 6,201,777) disclose a single optical pickup provided with a single objective lens whose numerical aperture NA is variable with the substrate thickness and changing the numerical aperture NA of the objective lens through an elliptical aperture.


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Agustin whose telephone number is 571-272-7567. The examiner can normally be reached on Monday-Thursday 8:30-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P. Agustin  
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ANDREA WELLINGTON  
SUPERVISORY PATENT EXAMINER